

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**XAVIER JOHNSON,**

**Plaintiff,**

**v.**

**BIG 10 TIRES, INC.,**

**Defendant.**

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**CASE NO. 2:05-cv-704-WKW**

**MOTION FOR EXTENSION OF TIME TO RESPOND TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES now Plaintiff and, pursuant to Rule 56(f), requests an extension of time up to the discovery deadline of September 7, 2006 to respond to Defendant's Motion for Summary Judgment on the following grounds:

1. Plaintiff is due to respond to Defendant's Motion for Summary Judgment on July 19, 2006.
2. Following Plaintiff's deposition on May 9, 2006<sup>1</sup>, the parties briefly discussed settlement and mediation possibilities wherein Defendant expressed its interest in mediating the present matter along with two similar charges of discrimination currently pending before the EEOC. These pending charges of discrimination were filed by former employees who worked in the same location as Plaintiff.
3. Plaintiff's counsel contacted the attorneys<sup>2</sup> for these two individuals to

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<sup>1</sup> Counsel for Plaintiff was out of the office with pneumonia May 1-5, 2006. As such, the depositions of three witnesses also scheduled for the week of May 9<sup>th</sup> were postponed.

<sup>2</sup> The two former employees with pending charges of discrimination are represented by two attorneys in one law

ascertain their interest in three-party mediation.

4. All parties were amenable to mediating their respective cases. As such, counsel for Plaintiff and Defendant agreed to postpone any additional depositions and discovery until after the mediation.
5. On May 14, 2006, Plaintiff's counsel suffered the loss of her mother-in-law. Shortly thereafter, on June 1, 2006, Plaintiff's counsel suffered the loss of her grandfather.
6. On or about June 2, 2006, the parties agreed on a mediator and the coordination of available dates for mediation began.
7. Although the parties had hoped to have the mediation scheduled sooner, mediation could not be scheduled until August 15, 2006.
8. In light of the latent date for the mediation and prior to the Court's Order directing Plaintiff respond by July 19, 2006, counsel for the parties had discussed scheduling additional depositions.
9. The deposition of one witness was taken on July 14, 2006. Another deposition is scheduled for July 27, 2006.
10. Additionally, the parties are in the process of scheduling other depositions, including that of a former employee of Defendant who currently resides in South Carolina.
11. Plaintiff needs the testimony from these witnesses in order to respond appropriately to Defendant's motion.
12. Counsel for Defendant has no objection to an extension of time up to the discovery deadline of September 7, 2006.

13. An extension of time up to the discovery deadline of September 7, 2006 will not prejudice either party.

WHEREFORE, Plaintiff requests that his motion for an extension of time up to the discovery deadline of September 7, 2006 to respond to Defendant's Motion for Summary Judgment be granted.

Respectfully submitted this the 17th day of July, 2006.

/s/ Maricia Woodham  
MARICIA WOODHAM, BEN050  
One of the Attorneys for Plaintiff  
Xavier Johnson

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I do hereby certify that on the 17th day of July, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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HAND ARENDALL, LLC  
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Post Office Box 123  
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/s/ Maricia Woodham  
Marcia Woodham